

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

SALVADOR BELTRAN, JR.,  
and ELI GROSS,  
*Individually and on behalf of all others  
similarly situated,*

*Plaintiffs,*

v.

SONY PICTURES ENTERTAINMENT, INC.  
d/b/a CRUNCHYROLL,

*Defendant.*

CASE NO.: 1:22-cv-04858

CLASS ACTION

**DECLARATION OF  
SCOTT M. FENWICK OF KROLL  
SETTLEMENT ADMINISTRATION LLC  
IN CONNECTION WITH FINAL  
APPROVAL OF SETTLEMENT**

Date: December 19, 2023

Time: 10:00 AM

Dept: Courtroom 1403

The Hon. Sara L. Ellis

I, Scott M. Fenwick, declare as follows:

### **INTRODUCTION**

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),<sup>1</sup> the Settlement Administrator appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision. This declaration is being filed in connection with final approval of the settlement.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, labor and employment, consumer, and government enforcement matters. Kroll has provided notification and/or claims administration services in more than 3,000 cases.

### **BACKGROUND**

3. Kroll was appointed as the Settlement Administrator to provide notification and claims administration services in connection with that certain Class Action Settlement Agreement (the “Settlement Agreement”) entered into in this Action. Kroll’s duties in connection with the settlement have and will include: (a) preparing and sending notices in connection with the Class Action Fairness Act; (b) receiving and analyzing the Class List from Defendant’s Counsel; (c) creating a settlement website with online claim filing capabilities; (d) establishing a toll-free telephone number; (e) establishing a post office box for the receipt of mail; (f) preparing and sending email Notice and reminder email Notices; (g) receiving and processing Claim Forms; (h) receiving and processing requests for exclusion; and (i) such other tasks as counsel for the Parties or the Court request Kroll to perform.

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement (as defined below).

## **NOTICE PROGRAM**

### **The CAFA Mailing**

4. As noted above, on behalf of the Defendant, Kroll provided notice of the proposed settlement pursuant to the Class Action Fairness Act, 28 U.S.C. §1715(b) (“the CAFA Notice”). At Defendant’s Counsel’s direction, on September 25, 2023, Kroll sent the CAFA Notice, a true and correct copy of which is attached hereto as **Exhibit A**, identifying the documents required via first-class certified mail, to (a) the Attorney General of the United States and (b) fifty-six (56) state and territory Attorneys General identified in the service list for the CAFA Notice, attached hereto as **Exhibit B**. The CAFA Notice directed the Attorneys General to the website [www.CAFANotice.com](http://www.CAFANotice.com), a site that contains all the documents relating to the settlement referenced in the CAFA Notice.

### **Data and Case Setup**

5. On September 25, 2023, Kroll received one (1) data file from the Defendant. The file contained 19,581,200 email addresses for Settlement Class Members. Kroll undertook several steps to reconcile and compile the eventual Class List for the email of Notices. No duplicate records were identified, leaving all 19,581,200 records as unique.

6. On September 20, 2023, Kroll created a dedicated settlement website entitled [www.crvppasettlement.com](http://www.crvppasettlement.com) (the “Settlement Website”). The Settlement Website “went live” on October 4, 2023, and contains a summary of the settlement, frequently asked questions, settlement documents (including the Class Action Complaint, First, Second and Third Amended Class Action Complaints, the Preliminary Approval Order, the Settlement Agreement, long form Notice, and Claim Form) and allowed Settlement Class Members an opportunity to file a Claim Form online.

7. On September 22, 2023, Kroll established a toll-free telephone number, (888) 933-5590, for Settlement Class Members to call and obtain additional information regarding the settlement through an Interactive Voice Response (“IVR”) system and by being connected to a

live operator. As of December 7, 2023, the IVR system has received 823 calls, and sixty-seven (67) callers have been connected to live operators.

8. On September 22, 2023, Kroll designated a post office box with the mailing address *Beltran v. Sony* c/o Kroll Settlement Administration, PO Box 225391, New York, NY 10150-5391 in order to receive requests for exclusion, Claim Forms, and correspondence from Settlement Class Members.

### **The Notice Program**

9. On October 4, 2023, Kroll caused the email Notice to be sent to the 19,581,200 email addresses on file for Settlement Class Members, as noted above. A true and correct copy of a complete exemplar email Notice (including the subject line) is attached hereto as **Exhibit C**. Of 19,581,200 emails attempted for delivery, 2,449,813 emails were rejected/bounced back as undeliverable.

10. As directed under 4.1(d) of the Settlement Agreement, on October 30, 2023, Kroll caused the first reminder email Notice to be sent to the 16,991,742 email addresses on file for Settlement Class Members who had not yet filed a Claim Form and whose initial email did not bounce and was not rejected. A true and correct copy of a complete exemplar reminder email Notice (including the subject line) is attached hereto as **Exhibit D**. Of 16,991,742 emails attempted for delivery, 197,410 reminder emails were rejected/bounced back as undeliverable.

11. As directed under 4.1(d) of the Settlement Agreement, on November 21, 2023, Kroll caused the second reminder email Notice to be sent to the 16,870,103 email addresses on file for Settlement Class Members who had not yet filed a Claim Form and whose Notice email or first reminder email did not bounce and was not rejected. Of 16,870,103 emails attempted for delivery, 37,835 emails were rejected/bounced back as undeliverable.

12. At the direction of Class Counsel and Defendant's Counsel, Kroll ran the rejected/bounced back emails through an email change of address search in an effort to locate secondary email addresses for Settlement Class Members whose email was rejected or bounced back on the initial email Notice. This search delivered 219,602 secondary email addresses for

Settlement Class Members. On November 21, 2023, Kroll caused 219,602 email Notices to be sent to these secondary email addresses. Of 219,602 email Notices attempted for delivery to these secondary email addresses, 25,321 emails were rejected/bounced back as undeliverable.

### **CLAIM ACTIVITY**

13. As of December 7, 2023, Kroll has received 1,196 Claim Forms through the mail and 329,931 Claim Forms filed electronically through the Settlement Website. Kroll is still in the process of reviewing and validating Claim Forms.

14. To prevent Claim Forms from being filed by individuals outside the Settlement Class and to curtail fraud, Settlement Class Members were provided a unique “Class Member ID” on their respective Notices. The Class Member ID is required for Settlement Class Members to file a Claim Form online.

15. The Claims Deadline is December 12, 2023.

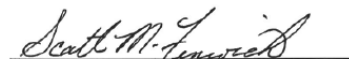
### **EXCLUSIONS AND OBJECTIONS**

16. The Objection/Exclusion Deadline was November 27, 2023.

17. As of December 7, 2023, Kroll has received sixteen (16) timely exclusion requests from the settlement. A list of the exclusions received is attached hereto as **Exhibit E**. Settlement Class Members were not instructed to submit their objection to the Settlement Administrator, and none have been received by Kroll.

### **CERTIFICATION**

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this Declaration was executed on December 7, 2023 in Inver Grove Heights, Minnesota.

  
SCOTT M. FENWICK

# Exhibit A



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VIA U.S. MAIL

Date: September 25, 2023

To: All "Appropriate" Federal and State Officials Per 28 U.S.C. § 1715  
(see attached service list)

Re: CAFA Notice for the proposed Settlement in *Beltran, et al., v. Sony Pictures Entertainment, Inc., d/b/a Crunchyroll* Case No: 1:22-cv-04858 pending in the United States District Court of the Northern District of Illinois

Pursuant to Section 3 of the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715, Defendant Crunchyroll, LLC<sup>1</sup> ("Defendant" or "Crunchyroll, LLC") hereby notifies you of the proposed settlement of the above-captioned action (the "Action"), currently pending in the United States District Court of the Northern District of Illinois (the "Court").

Eight items must be provided to you in connection with any proposed class action settlement pursuant to 28 U.S.C. § 1715(b). Each of these items is addressed below, and all exhibits are available for download at [www.CAFANotice.com](http://www.CAFANotice.com) under the folder entitled *Beltran, et al., v. Sony Pictures Entertainment, Inc. d/b/a Crunchyroll*:

1. 28 U.S.C. § 1715(b)(1) – a copy of the complaint and any materials filed with the complaint and any amended complaints.

The Class Action Complaint, First Amended Class Complaint, Second Amended Class Action Complaint and Third Amended Class Action Complaint are available as **Exhibit A, A1, A2, A3**.

2. 28 U.S.C. § 1715(b)(2) – notice of any scheduled judicial hearing in the class action.

On September 15, 2023, Plaintiff filed a motion for preliminary approval of the class action settlement, and the Court granted preliminary approval on September 20, 2023. The Court scheduled the Final Fairness Hearing for this matter on December 19, 2023.

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<sup>1</sup> Sony Pictures Entertainment Inc. was incorrectly named as the Defendant in the case. Sony Pictures Entertainment Inc. is a separate corporation from Crunchyroll, LLC and is not a party to the Settlement.

3. 28 U.S.C. § 1715(b)(3) – any proposed or final notification to class members.

A copy of the proposed Long Form Notice, Email Notice and Claim Form, will be provided to Class Members and will be available on the settlement website created for the administration of this matter. These are available as **Exhibits B, C, and D**, respectively. The notices describe, among other things, the claim submission process and the Class Members' rights to object or exclude themselves from the Class.

4. 28 U.S.C. § 1715(b)(4) – any proposed or final class action settlement.

The Settlement Agreement is available as **Exhibit E**.

5. 28 U.S.C. § 1715(b)(5) – any settlement or other agreement contemporaneously made between class counsel and counsel for defendants.

There are no other settlements or other agreements between Class Counsel and counsel for Defendant beyond what is set forth in the Settlement Agreement.

6. 28 U.S.C. § 1715(b)(6) – any final judgment or notice of dismissal.

The Court has not yet entered a final judgment or notice of dismissal. Accordingly, no such document is presently available.

7. 28 U.S.C. § 1715(b)(7) – (A) If feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or (B) if the provision of the information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.

The definition of the Class in the proposed Settlement Agreement means all persons in the United States who: (1) were registered users of an online website, mobile app, or any video-on-demand service or app owned, controlled, and/or operated by Crunchyroll; and (2) who viewed videos on an online website, mobile app, or any video-on-demand service or app owned, controlled, and/or operated by Crunchyroll during the Class Period. Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this Action and members of their families; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (3) persons who properly execute and file a timely request for exclusion from the class; and (4) the legal representatives, successors or assigns of any such excluded persons.

The complete list and counts by state of Class Members is not known.

8. 28 U.S.C. § 1715(b)(8) – any written judicial opinion relating to the materials described in 28 U.S.C. § 1715(b) subparagraphs (3) through (6).

There has been no written judicial opinion. Accordingly, no such document is presently available.



If you have any questions about this notice, the Action, or the materials available for download at [www.CAFANotice.com](http://www.CAFANotice.com) under the folder entitled *Beltran, et al., v. Sony Pictures Entertainment, Inc. d/b/a Crunchyroll*, please contact the undersigned below.

Respectfully submitted,

T.Steven Smith  
Senior Manager  
[t.steven.smith@kroll.com](mailto:t.steven.smith@kroll.com)

# Exhibit B

## CAFA NOTICE SERVICE LIST

### **U.S. Attorney General**

Merrick B. Garland  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

### **Alabama Attorney General**

Steve Marshall  
501 Washington Ave.  
P.O. Box 300152  
Montgomery, AL 36130

### **Alaska Attorney General**

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1031 W. 4th Avenue, Suite 200  
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### **American Samoa Attorney General**

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American Samoa Gov't, Exec. Ofc. Bldg,  
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### **Arizona Attorney General**

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### **Arkansas Attorney General**

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323 Center St., Suite 200  
Little Rock, AR 72201

### **California Attorney General**

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### **Colorado Attorney General**

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### **Delaware Attorney General**

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### **District of Columbia Attorney General**

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### **Florida Attorney General**

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### **Georgia Attorney General**

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### **Guam Attorney General**

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### **Hawaii Attorney General**

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### **Idaho Attorney General**

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**Illinois Attorney General**

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**Indiana Attorney General**

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**Iowa Attorney General**

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**Massachusetts Attorney General**

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**Michigan Attorney General**

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**Mississippi Attorney General**

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Jackson, MS 39205

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Jefferson City, MO 65101

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Carson City, NV 89701

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Concord, NH 03301

**New Jersey Attorney General**

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Trenton, NJ 08625

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Santa Fe, NM 87504

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**Oregon Attorney General**

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Salem, OR 97301

**Pennsylvania Attorney General**

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**Puerto Rico Attorney General**

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**Rhode Island Attorney General**

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**South Carolina Attorney General**

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**South Dakota Attorney General**

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**Tennessee Attorney General**

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**Texas Attorney General**

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**U.S. Virgin Islands Attorney General**

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Page 7 of 7

**Utah Attorney General**

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**Virginia Attorney General**

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Richmond, VA 23219

**Washington Attorney General**

Bob Ferguson  
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**West Virginia Attorney General**

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**Wisconsin Attorney General**

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Wisconsin Department of Justice State  
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Madison, WI 53707

**Wyoming Attorney General**

Bridget Hill  
State Capitol Bldg.  
109 State Capitol  
Cheyenne, WY 82002

# Exhibit C

**TO:** <<Class Member Email>>  
**FROM:** Settlement Administrator <<Settlement@chosendomain.com>>  
**RE:** Legal Notice of Class Action Settlement

**Class Member ID:** <<Refnum>>

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Beltran, et al. v. Sony Pictures Entertainment Inc., d/b/a Crunchyroll; 1:22-cv-4858*  
(United States District Court for the Northern District of Illinois)

**Our Records Indicate You May Be Entitled to a Payment from a Class Action Settlement  
Because You Subscribed to Crunchyroll**

Click [HERE](#) To File A Claim for a Cash Payment

**Claims Must be Submitted no later than December 12, 2023.**

*A Court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.*

This Notice is to inform you that a Settlement has been reached in a class action lawsuit claiming that Crunchyroll, LLC (“Defendant”), disclosed its subscribers’ personally identifiable information to third parties using tracking pixels and/or web beacons, without its subscribers’ consent, in violation of the Video Privacy Protection Act (the “VPPA”). Personally identifiable information includes information which identifies a specific Person as having requested or obtained specific video materials or services from a video tape service provider. Defendant denies that it violated any law but has agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the case.

**Am I a Settlement Class Member?** Records indicate you may be a Settlement Class Member. “Settlement Class” means all Persons in the United States who, from September 8, 2020, to September 20, 2023 (1) were registered users of an online website, mobile app, or any video-on-demand service or app owned, controlled, and/or operated by Crunchyroll; and (2) who viewed videos on an online website, mobile app, or any video-on-demand service or app owned, controlled, and/or operated by Crunchyroll.

**What Can I Get?** If approved by the Court, Defendant will create a Settlement Fund of **\$16,000,000** for the benefit of the Settlement Class. The Settlement Fund will be distributed to Settlement Class Members who file a timely and complete claim on a *pro rata* basis (meaning equal share), after deducting any Court-approved Fee Award, service award for the Class Representatives, and Settlement Administration Expenses (including payment of any associated taxes).



**How Do I Get a Payment?** You must submit a timely and complete Claim Form no later than December 12, 2023. You can file a claim by clicking [here](#). A variety of payment options are available, including different electronic payment platforms, and those options are available for review [here](#).

**What are My Other Options?** You may exclude yourself from the Settlement Class by sending a letter to the Settlement Administrator no later than November 27, 2023. If you exclude yourself, you cannot get a Settlement payment, but you will keep any rights you may have to sue Defendant regarding the issues in the Action. You may object to the proposed Settlement, and you and/or your lawyer have the right to appear before the Court. Your written objection must be filed no later than November 27, 2023. Specific instructions about how to exclude yourself from, or object to, the Settlement are available [here](#). If you file a claim or do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims against Defendant relating to issues in this case will be released.

**Who Represents Me?** The Court has appointed lawyers Brandon Wise and Adam Florek (Peiffer Wolf Carr Kane Conway & Wise, LLP) and Michael L. Murphy (Bailey Glasser LLP) to represent the Settlement Class. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at 10:00 AM on December 19, 2023, in Courtroom 1403 of the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsels' Fee Award; and to consider the request for a service award to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

**How Do I Get More Information?** More information, including the full Notice, Claim Form and Settlement Agreement can be viewed [here](#). You may also contact the Settlement Administrator at (833) 933-5590 or *Beltran v. Sony, c/o Kroll Settlement Administration, LLC, PO Box 225391, New York, NY 10150-5391* or call Class Counsel at (314) 833-4827.

# Exhibit D

**TO:** <<Class Member Email>>  
**FROM:** Settlement Administrator <<Settlement@chosendomain.com>>  
**RE:** Reminder - Legal Notice of Class Action Settlement

**Class Member ID:** <<Refnum>>

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

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**Am I a Settlement Class Member?** Records indicate you may be a Settlement Class Member. “Settlement Class” means all Persons in the United States who, from September 8, 2020, to September 20, 2023 (1) were registered users of an online website, mobile app, or any video-on-demand service or app owned, controlled, and/or operated by Crunchyroll; and (2) who viewed videos on an online website, mobile app, or any video-on-demand service or app owned, controlled, and/or operated by Crunchyroll.

**What Can I Get?** If approved by the Court, Defendant will create a Settlement Fund of **\$16,000,000** for the benefit of the Settlement Class. The Settlement Fund will be distributed to Settlement Class Members who file a timely and complete claim on a *pro rata* basis (meaning equal share), after deducting any Court-approved Fee Award, service award for the Class Representatives, and Settlement Administration Expenses (including payment of any associated taxes).

**How Do I Get a Payment?** You must submit a timely and complete Claim Form no later than December 12, 2023. You can file a claim by clicking [here](#). A variety of payment options are available, including different electronic payment platforms, and those options are available for review [here](#).

**What are My Other Options?** You may exclude yourself from the Settlement Class by sending a letter to the Settlement Administrator no later than November 27, 2023. If you exclude yourself, you cannot get a Settlement payment, but you will keep any rights you may have to sue Defendant regarding the issues in the Action. You may object to the proposed Settlement, and you and/or your lawyer have the right to appear before the Court. Your written objection must be filed no later than November 27, 2023. Specific instructions about how to exclude yourself from, or object to, the Settlement are available [here](#). If you file a claim or do nothing, and the Court approves the Settlement, you will be bound by all of the Court's orders and judgments. In addition, your claims against Defendant relating to issues in this case will be released.

**Who Represents Me?** The Court has appointed lawyers Brandon Wise and Adam Florek (Peiffer Wolf Carr Kane Conway & Wise, LLP) and Michael L. Murphy (Bailey Glasser LLP) to represent the Settlement Class. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at 10:00 AM on December 19, 2023, in Courtroom 1403 of the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the Class Counsels' Fee Award; and to consider the request for a service award to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

**How Do I Get More Information?** More information, including the full Notice, Claim Form and Settlement Agreement can be viewed at [www.crvppasettlement.com](http://www.crvppasettlement.com). You may also contact the Settlement Administrator at (833) 933-5590 or *Beltran v. Sony, c/o Kroll Settlement Administration, LLC, PO Box 225391, New York, NY 10150-5391* or call Class Counsel at (314) 833-4827.

# Exhibit E

## Exclusion List

Count	Record Identification Number
1	77874PDRYHNY5
2	77874PDRZ6F8Y
3	77874GD7QP9FW
4	77874PDRZ6JDJ
5	778742XX5C4H4
6	77874PDRYHN6S
7	778748DV2DR0V
8	77874PDRZ6CP2
9	77874PDRZ6C5K
10	77874PDRZ695D
11	778742KN0VHS7
12	778742N32KWB2
13	778742FNKQ8G0
14	77874PDRVND41
15	77874GJPX2PWX
16	778742HBH0YJT